

No. 81110-5

(Court of Appeals No. 36202-3-II)

SUPREME COURT OF THE STATE OF WASHINGTON

IN RE PERSONAL RESTRAINT PETITION

OF

DOUGLAS J. TOBIN

Petitioner.

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STATE OF WASHINGTON
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SUPPLEMENTAL BRIEF OF PETITIONER

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A. ISSUES REQUESTED TO BE BRIEFED

No. 1. Is Mr. Tobin's petition time-barred?

No. 2. "The issue of the scoring of unranked fish and wildlife misdemeanors."

(Order dated June 4, 2008)

B. STATEMENT OF THE CASE

Some pertinent facts are set forth in the Personal Restraint Petition and the State's Response and Supplemental Brief of Respondent. Other relevant facts include the following.

On April 25, 2003 Mr. Tobin pled guilty in three Pierce County Superior Court Case numbers as part of a single negotiated plea agreement. (Statement of Defendant on Plea of Guilty (02-1-01494-4, 1 count of unlawful possession of a firearm) at Appendix B;¹ Statement of Defendant on Plea of Guilty (02-1-05810-0, 1 count of first-degree theft) at Attachment 1; Statement of Defendant on Plea of Guilty (02-1-01236-3, 2 gross misdemeanors, 33 first degree unlawful trafficking in fish, shellfish or wildlife, 2 other fish and wildlife violations) at Attachment 2)

¹ In order to be consistent with the State's references, all appendices refer to the appendices attached to the State's original response to Mr. Tobin's personal restraint petition filed in the Court of Appeals. "Attachments" refer to documents attached to this brief.

On December 15, 2003, Mr. Tobin was sentenced in the three cause numbers. (Judgment and Sentence (UPF) in 02-1-01494-4 at Appendix A; Judgment and Sentence (theft) in 02-1-05810-0 at Attachment 3; Judgment and Sentence (fishing violations) in 02-1-01236-3 at Attachment 4)

Additional facts are as noted in the argument section *infra*.

C. ARGUMENT

1. Mr. Tobin's petition for collateral relief must be treated as timely where the sentencing court and/or Department of Corrections did not give him the statutorily required notice of a time bar.

When a statute requires that a court or DOC notify a defendant of a time bar and the notice is not given, this omission creates an exemption to the time bar and a court, therefore, must treat the defendant's petition for collateral review as timely. State v. Schwab, 141 Wn. App. 85, 91-92, 167 P.3d 1225 (2007), *citing* In re Pers. Restraint of Vega, 118 Wn.2d 449, 450-51, 823 P.2d 1111 (1992) (applying rule to RCW 10.73.120); State v. Golden, 112 Wn. App. 68, 78, 47 P.3d 587 (2002) (applying Vega rule to RCW 10.73.110), *rev. denied*, 148 Wn.2d 1005, 60 P.3d 1212 (2003).

Under RCW 10.73.110,² the trial court must advise a defendant of the one-year statute of limitations when it pronounces judgment and sentence. And under RCW 10.73.120,³ the DOC must make a good faith effort to advise defendants of the one-year time limit. There is no evidence in the record before this Court showing that the trial court or DOC notified Mr. Tobin that he had only one year to collaterally attack the judgment. Thus, Mr. Tobin did not receive the notice that RCW 10.73.110 and .120 require and his personal restraint petition must be deemed timely. See Schwab, 141 Wn. App. at 92-93.

2. Mr. Tobin's petition for collateral relief is timely where it was filed before the judgment and sentence in his negotiated plea agreement became final.

Under RCW 10.73.090(1), a petitioner may file a collateral attack on a criminal judgment and sentence up to one year after the judgment becomes final if the judgment and sentence is valid on its face and was

² RCW 10.73.110. Collateral attack--One year time limit--Duty of court to advise defendant.

At the time judgment and sentence is pronounced in a criminal case, the court shall advise the defendant of the time limit specified in RCW 10.73.090 and 10.73.100.

³ RCW 10.73.120. Collateral attack--One year time limit--Duty of department of corrections to advise.

As soon as practicable after July 23, 1989, the department of corrections shall attempt to advise the following persons of the time limit specified in RCW 10.73.090 and 10.73.100: Every person who, on July 23, 1989, is serving a term of incarceration, probation, parole, or community supervision pursuant to conviction of a felony.

rendered by a court that had jurisdiction. The judgment becomes final either on the date it is filed with the clerk of the trial court or on the date the appellate court issues its mandate disposing of a direct appeal from the conviction, whichever comes last. RCW 10.73.090(3).

Herein, there was a single plea agreement negotiating the outcome of numerous related crimes charged under three separate cause numbers. The pleas were taken on the same day. (Appendix A, and Attachments 1 and 2). The convictions in the three cause numbers were sentenced on the same day. (See Appendix B, and Attachments 3 and 4) Each Judgment and Sentence references the other two cause numbers as “other current offenses” and calculates the “other current offenses” into the offender score shown therein. (Appendix A, pp. 3-4; Attachment 3, pp. 1-2; Attachment 4, pp. 3-4) Thus, the fact that separate Judgment and Sentence documents were entered does not alter the reality that effectively the documents constituted one judgment and sentence resulting from the single negotiated plea agreement.

Other courts have concluded that a petition is not time barred under similar factual circumstances. For example, in State v. O'Connell, 137 Wn. App. 81, 152 P.3d 349, *rev. denied* 162 Wn.2d 1007, 175 P.3d 1094 (2007), convictions from two separate trials were sentenced in one

Judgment and Sentence document. One set of convictions had been appealed and mandated, and then sent back for resentencing under a Commissioner's Certificate of Finality. The Court held that Mr. O'Connell's petition challenging the other set of convictions was timely under RCW 10.73.090(3), where it was filed within 30 days of the resentencing. State v. O'Connell, 137 Wn. App. at 92-93.⁴

Herein, as in Connell, Mr. Tobin appealed the restitution order stemming from the plea agreement, but the Court of Appeals affirmed.⁵ This Court granted review of only one issue, and affirmed the Court of Appeals.⁶ This Court filed the mandate on October 8, 2007. (Attachment 5) Thus, the judgment arising from the plea agreement became final on that date for purposes of RCW 10.73.090(3). Because Mr. Tobin filed his

⁴ "The convictions from both trials and their sentences were combined in one judgment and sentence that has been the springboard for three appeals. The first appeal was mandated when the second degree robbery and related attempt to elude were reversed and remanded. The second appeal was terminated with a "certificate of finality" by the court commissioner when the State agreed that the trial court had mistakenly resentenced Mr. O'Connell with the dismissed eluding conviction counted in his offender score. But the third appeal, of the first degree robbery and related attempt to elude [at issue in this appeal and PRP], was timely filed within one month of the second resentencing. The mandate on this final appeal has not been issued, and Mr. O'Connell's personal restraint petition challenges the convictions from the trial that is the subject of this appeal. Accordingly, his personal restraint petition is timely.." State v. O'Connell, 137 Wn. App. at 92-93 (citations omitted).

⁵ State v. Tobin, 161 Wn.2d 517, 522, 166 P.3d 1167 (2007), citing State v. Tobin, 132 Wn. App. 161, 181, 130 P.3d 426 (2006).

⁶ State v. Tobin, 161 Wn.2d at 531-32.

personal restraint petition several months prior to that date, on April 5, 2007, it is not time-barred and is subject to review by this Court.

3. Calculation of offender score.

This Court asked parties to provide briefing on the “scoring of unranked fish and wildlife misdemeanors.” Misdemeanors are simple or gross, and they are not ‘ranked’ in the Sentencing Reform Act and are not included as points. There appear to be misdemeanors among the charges pled to in Cause No. 02-1-01236-3, as well as a number of unranked felonies. (Attachment 2) Undersigned counsel is not aware of authority that precludes unranked felonies being counted as one point each in the calculation of an offender score.

However, Mr. Tobin has raised the issue of whether the 35 fish and wildlife violations constitute the same criminal conduct. A sentence in excess of statutory authority is subject to collateral attack, that a sentence is excessive if based upon a miscalculated offender score (miscalculated upward), and that a defendant cannot agree to punishment in excess of that which the legislature has established. In re Pers. Restraint of Goodwin, 146 Wn.2d 861, 873-74, 50 P.3d 618 (2002). Waiver can be found where the alleged error involves an agreement to facts, later disputed, or where

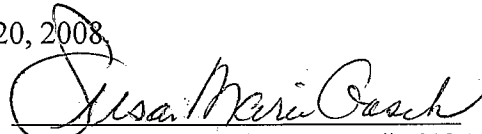
the alleged error involves a matter of trial court discretion. Goodwin, 146 Wash.2d at 873, 50 P.3d 618.

Nonetheless, a finding of waiver requires more than written acknowledgement of the calculation of the offender score. It requires some showing in the record that a defendant failed to ask the court to make a discretionary call of any factual dispute regarding the issue of "same criminal conduct" or did not otherwise contest the issue at the trial level. *See In re Shale*, 160 Wn.2d 489, 495-96, 158 P.3d 588 (2007). There is no record before this Court of the taking of the pleas and the sentencing in the three cause numbers underlying the plea agreement. The matter should be remanded to the trial court for clarification of its determination on the issue of same criminal conduct.

D. CONCLUSION

Due to application of existing law to the facts of record and total evidence, Petitioner, Douglas J. Tobin, respectfully requests that this Court find his petition is not time-barred and grant the relief requested herein and as set forth in his Motion for Discretionary Review.

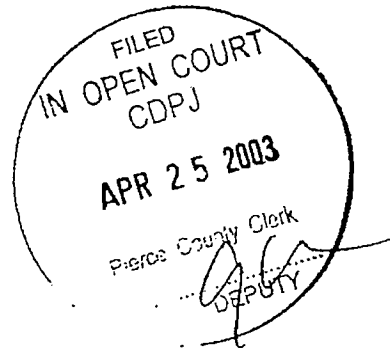
Respectfully submitted July 20, 2008,


Susan Marie Gasch, WSBA #16485
Attorney for Petitioner

ATTACHMENT 1

Statement of Defendant on Plea of Guilty

(02-1-05810-0, first-degree theft)



IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff,

Cause No. 02-1-05810-0

vs.

STATEMENT OF DEFENDANT ON
PLEA OF GUILTYUSE FOR NON-VIOLENT CRIMES
COMMITTED AFTER 7-1-00Douglas John Martin Tobin Defendant.

APR 25 2003

1. My true name is: Doug Tobin
2. My age is: 49 DOB: 4/27/03
3. I went through the College grade.
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:
 - (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is: Allen Rasse WSBA#: 5330
Gary Clower 13720
 - (b) I have received a copy of and I am charged in _____ Information with the crime(s) of:

Count I: Theft 10
Elements: In the State of WA.
(GOODLUMS)Count II:
Elements: In the State of WA.

Obtain or exert control over property belonging to another in an unlawful manner
an amount exceeding \$1500 with the intent to deprive the owner thereof
BETWEEN 1/1/00 - 3/18/02

(c) _____ Additional counts are addressed in Attachment 4(d).

5. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a STANDARD SENTENCE RANGE as follows:

	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	COMMUNITY CUSTODY RANGE	MAXIMUM TERM AND FINE
1	9+	43-57				10 years \$20,000
2						

* (V) VUCSA in protected zone, (JP) Juvenile present

(b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes other current offenses, prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere. ☐ The parties stipulate the standard range is correct and may be relied upon.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions prior to being sentenced.

(d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding upon me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase, even if the result is a mandatory sentence of life imprisonment without the possibility of parole.

(e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees, the costs of incarceration, and other legal financial obligations.

(f) In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the community custody range established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.728 (formerly RCW 9.94A.150) is longer, that will be the term of my community custody. If I have been convicted of a crime that is not listed in the chart and my sentence is more than 12 months, I will be placed on community custody for the period of earned release.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Crimes Against Persons as defined by RCW 9.94A.411 (formerly .440(2))	9 to 18 months or up to the period of earned release, whichever is longer
Offenses under Chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.505 (formerly .120(6)))	9 to 12 months or up to the period of earned release, whichever is longer

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

(g) The prosecuting attorney will make the following recommendation to the judge; ☐ The State and the defendant will jointly make this recommendation.

THE STATE WILL REQUEST AN EXCEPTIONAL SENTENCE TO RUN CONSECUTIVE TO CHARGE #02-1-01499-4 500 CPM, 110 COSTS - THE STATE WILL REQUEST RESTITUTION IN THE AMOUNT OF 1.2 MILLION DOLLARS. THE DEFENDANT FORFEITS ALL PROPERTY SEIZED BY THE STATE: TYPHOON EQUIPMENT, SONAR EQUIPMENT, BOAT WALKER, TRUCKS, ETC., -

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a *PAWS, VEHICLES,* sentence within the standard range of actual confinement and community custody unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range of actual confinement and community custody, either the State or I can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. I am ☐ am not ☐ a United States citizen.

(j) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040.

(k) Public assistance will be suspended during any period of imprisonment.

(l) I understand that I will be required to have a biological sample collected for purposes of DNA identification analysis. For offenses committed on or after July 1, 2002, I will be assessed a \$100 DNA collection fee.

NOTIFICATION RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS

DO NOT APPLY, THEY SHOULD BE STRICKEN.

- (m) The judge may sentence me as a **first-time offender** instead of giving me a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days confinement, and up to two years of community custody, plus all of the conditions described in paragraph 5(f). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.
- (n) If this is a crime of **domestic violence** and I, or the victim of the offense has a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.
- (o) If this crime involves a **sexual offense, prostitution, or a drug offense** associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.
- (p) The judge may sentence me under the special **drug offender sentencing alternative (DOSA)** if I qualify under RCW 9.94A.660, formerly RCW 9.94A.120(6). This sentence could include a period of total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions described in paragraph 5(f). During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose community custody of at least one-half of the midpoint of the standard range that must include appropriate substance abuse treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. Additionally, the judge could prohibit me from using alcohol or controlled substances, require me to devote time to a specific employment or training, stay out of certain areas, pay thirty dollars per month to offset the cost of monitoring and require other conditions, including affirmative conditions. For offenses committed on or after June 8, 2000, if an offender receives a DOSA sentence and then fails to complete the drug offender sentencing alternative program or is administratively reclassified by the department of corrections, the offender shall be reclassified to serve the unexpired term of the sentence as ordered by the sentencing judge and shall then be subject to a range of community custody and early release as specified in section 5(f) of the plea form.
- (q) If the judge finds that I have a **chemical dependency** that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.
- (r) If this crime involves the manufacture, delivery, or unlawful possession with the intent to deliver methamphetamine or amphetamine or unlawful possession of pseudoephedrine or anhydrous ammonia with intent to manufacture methamphetamine, a **mandatory methamphetamine clean-up fine of \$3,000.00** will be assessed. RCW 69.50.401(a)(1)(ii) or RCW 69.50.440.
- (s) If this crime involves a **motor vehicle**, my driver's license or privilege to drive will be suspended or revoked. If I have a driver's license, I must now surrender it to the judge.
- (t) I understand that the offense(s) I am pleading guilty to include a **deadly weapon or firearm enhancement**. Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements.
- (u) I understand that the offenses I am pleading guilty to include both a conviction under RCW 9.41.040 for **unlawful possession of a firearm** in the first or second degree and one or more convictions for the felony crimes of **theft of a firearm or possession of a stolen firearm**. The sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will also be imposed for each firearm unlawfully possessed.
- (v) I understand that if I am pleading guilty to the crime of **unlawful practices in obtaining assistance** as defined in RCW 74.08.331, no assistance payment shall be made for at least 6 months if this is my first conviction and for at least 12 months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.

(w) If this crime involves a violation of the state drug laws, my eligibility for state and federal food stamps, welfare, and education benefits will be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 826a.

6. I UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial as well as other pretrial motions such as speedy trial challenges and suppression issues.

7. I make this plea freely and voluntarily.

8. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement: *IN PEARCE COUNTY WA. BETWEEN 1/1/00 THROUGH 3/18/02 I STOLE GEODUCKS FROM THE STATE WA.*

If my statement is a Newton or Alfred Plea, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. ☐ I was given a copy and I read this plea statement. ☒ My lawyer read this plea statement to me. Also, my lawyer has explained to me, and we have fully discussed, all of the above paragraphs. If I have any more questions about it, I understand I can and need to ask the judge when I enter my plea of guilty.

Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

Defendant's Lawyer, WSBA#

Approved for entry:

Prosecuting Attorney, WSBA#

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The court finds:

- (a) ☐ The defendant had previously read the entire statement above and the defendant understood it in full; or
- (b) ☐ The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) ☐ An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently, and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this 28th day of April, 2003.

Judge

APR 25 2003

Pearce County Clerk

Z-172-1 DEPUTY

NOTIFICATION RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS DO NOT APPLY, THEY SHOULD BE STRICKEN AND INITIALED BY THE DEFENDANT AND THE JUDGE.

- (k) This offense is a most serious offense, or strike, as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.
In addition, if this offense is (1) rape in the first degree, rape of a child in the first degree, rape in the second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child molestation in the first degree, or (2) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation, or (3) any attempt to commit any of the crimes listed in this sentence, and I have at least one prior conviction for one of these listed crimes in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.
- (l) The judge may sentence me as a first-time offender instead of giving me a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days confinement, and up to two years community supervision if the crime was committed prior to July 1, 2000, or two years of community custody if the crime was committed on or after July 1, 2000, plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.
- (m) The judge may suspend execution of the standard range term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.120(8). If the judge suspends execution of the standard range term of confinement, I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater; I will be ordered to serve up to 180 days of total confinement; I will be ordered to participate in sex offender treatment; and I will be subject to all of the conditions described in paragraph (e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.
- (n) Because this crime involves a sex offense or a kidnapping offense involving a minor, I will be required to register where I reside, study, or work. The specific current registration requirements are set forth in Attachment "A". These requirements may change at a later date. I will be responsible for learning about any changes in the registration requirements and for complying with the registration requirements.
- (o) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purpose of DNA identification analysis.
- (p) If this is a crime of domestic violence and if I, or the victim of the offense has a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - 5

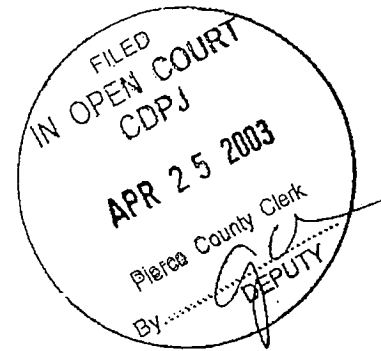
ATTACHMENT 2

Statement of Defendant on Plea of Guilty

(02-1-01236-3, fish and wildlife violations)



02-1-01236-3 18855662 STTDFG 05-01-03



**SUPERIOR COURT OF WASHINGTON
FOR PIERCE COUNTY**

STATE OF WASHINGTON,

Plaintiff

NO. 02-1-01236-3

**STATEMENT OF DEFENDANT ON
PLEA OF GUILTY**

APR 28 2003

vs.

DOUGLAS J. M. TOBIN
Defendant.

1. My true name is Doug Tobin
2. My age is 49
3. I went through the College Grad grade.
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

- (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

I am charged with: COUNT (36) FAILURE TO REPORT COMMERCIAL FISH

- (b) The elements are: HARVEST OR DELIVERY - IN STATE OF WASHINGTON
BETWEEN 11/00 AND 1/15/02 WHEN ACTING FOR
COMMERCIAL PURPOSES UNLAWFULLY TOOK SHELLFISH AND
FAILED TO MARK OUR FISH TICKET.

I UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

5. (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself.
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of

STATEMENT OF DEFENDANT ON PLEA OF GUILTY

CrRLJ4.2(g) Page 1

Z-110-1

SUPERIOR COURT OF WASHINGTON
FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff

NO. 02-1-01236-3

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY

vs.

DOUGLAS J. M. TOBIN
Defendant.

1. My true name is Doug Tobin
2. My age is 49
3. I went through the College Grad grade.
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

- (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

I am charged with: COUNT (37) POSSESSING OR SELLING SHELLFISH

- (b) The elements are: WITHOUT A CERTIFICATE OF APPROVAL -
IN STATE OF WASHINGTON BETWEEN 1/1/2000 AND
3/15/02 WITHOUT A CERTIFICATE OF APPROVAL (HEALTH)
DID SELL A COMMERCIAL QUANTITY OF SHELLFISH. ENVELOPED

I UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM
ALL UP BY PLEADING GUILTY: 08 AKW 09.30 ETC.

5. (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself.
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of

STATEMENT OF DEFENDANT ON PLEA OF GUILTY

CrRLJ4.2(g) Page 1

Z-110-1

guilty;

- (f) The right to appeal a finding of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- (a) The crime with which I am charged carries a maximum sentence of 365 days in jail and a \$ 5000 fine.
- (b) The prosecuting authority will make the following recommendation to the judge: 12 MONTHS
CONCURRENT WITH FILING CHARGES

I ☒ agree ☐ do not agree with the recommendation in paragraph (b) above.
Defendant's initials _____ Attorney's initials _____

- (c) The judge does not have to follow anyone's recommendation as to sentence. The judge can give me any sentence up to the maximum authorized by law no matter what the prosecuting authority or anyone else recommends.
- (d) The judge may place me on probation for up to five years if I am sentenced under RCW 46.61.5055 or up to two years for all other offenses and impose conditions of probation.
- (e) The judge may require me to pay costs, fees and assessments authorized by law. The judge may also order me to make restitution to any victims who lost money or property as a result of crimes I committed. The maximum amount of restitution is double the amount of the loss of all victims or double the amount of my gain.
- (f) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

NOTIFICATION RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS APPLY, THE BOX SHOULD BE CHECKED AND THE PARAGRAPH INITIALED BY THE DEFENDANT.

- ☐ g The crime of _____ has a mandatory minimum sentence of _____
☒ The law does not allow any reduction of this sentence.
- ☐ h If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.
- ☐ i This plea of guilty will result in suspension or revocation of my driver's license by the Department of Licensing. If I have a driver's license, I must now surrender it to the judge.

☐ I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9A.10.040.

☐ If this case involves driving while under the influence of alcohol and/or being in actual physical control of a vehicle while under the influence of alcohol and/or drugs, I have been informed and understand that I will be subject to the penalties described in Attachment "A".

☐ I understand that if this crime involves a sex offense, a kidnapping offense involving a minor, communicating with a minor, or one of the other offenses listed in RCW 9A.44.130(8)(a), I will be required to register with the county sheriff as described in Attachment "B".

7. I plead guilty to the crime(s) of _____ as charged in the complaint or citation and notice. I have received a copy of that complaint or citation and notice.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state in my own words what I did that makes me guilty of this crime. This is my statement:

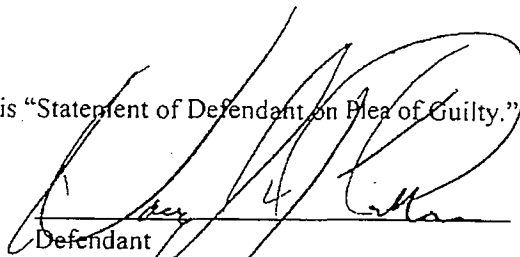
between 1/1/00 - 3/15/02 Failed to report commercial Fish harvest or delivery when acting for a commercial purpose, intentionally took Shellfish & failed to make out fish ticket!

☐ Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

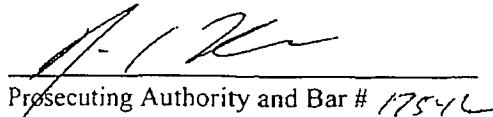
12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand

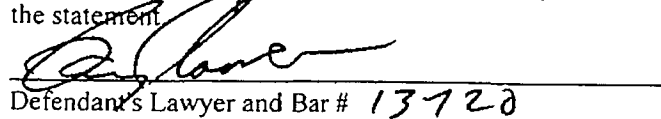
them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

Date: _____


Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.


Prosecuting Authority and Bar # 17542


Defendant's Lawyer and Bar # 13720

JUDITH L. HEDGECOCK
Print Name

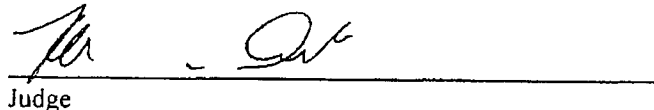
GARY CLOVER
Print Name

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check the appropriate box):

- ☐ (a) The defendant had previously read; or
☐ (b) The defendant's lawyer had previously read to him or her; or
☐ (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

DATED: 4-25-03


Judge

INTERPRETER'S DECLARATION

(If required, attach to Statement of Defendant on Plea of Guilty.)

I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands, and I have translated _____ for the defendant from English into that language. (Identify document being translated)

The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED: _____

Interpreter

LOCATION: _____

IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff,

Cause No. 02-1-01236-3

vs.

DOUGLAS J. M. TOBIN

Defendant.

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY
USE FOR NON-VIOLENT CRIMES
COMMITTED AFTER 7-1-00

1. My true name is: DOUGLAS JOHN MARTEN TOBIN
2. My age is: 49 DOB: 4/27/03
3. I went through the College grade.
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:
- (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is: _____ WSBA#: _____

(b) I have received a copy of and I am charged in 3rd AMENDMENT Information with the crime(s) of:
 Count I: UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
 Elements: In the State of WA, ON 6/6/00, DISPOSSESS IN SHELLFISH, VALUED
IN EXCESS OF \$2500, THAT HAD BEEN ILLEGALLY HARVESTED

Count II: UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
 Elements: In the State of WA, ON 6/9, 10/00, DISPOSSESS IN SHELLFISH, VALUED
IN EXCESS OF \$2500, THAT HAD BEEN ILLEGALLY HARVESTED

(c) ☒ Additional counts are addressed in Attachment 4(d).

5. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a STANDARD SENTENCE RANGE as follows:

OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	COMMUNITY CUSTODY RANGE	MAXIMUM TERM AND FINE
<u>1-38</u>	<u>1-12 MONTHS</u>		<u>SAME ON ALL FUTURE COUNTS THIS CAUSE #</u>		<u>5 YRS</u>
<u>2</u>					<u>10,000</u>

* (V) VUCSA in protected zone, (JP) Juvenile present

Case Name: DOUGLAS JOSEN Cause No: 02-1-01236-3

ATTACHMENT "B"

4. (b) (continued) Defendant is pleading guilty to these additional counts:

Count 3: UNLAWFUL TRANSFER OF FISH OR WILDLIFE IN THE FIRST
 Elements: IN THE STATE OF WASHINGTON ON 13 day of Jul, 2020 DID TRANSFER IN SHELLFISH, VALUED IN EXCESS OF \$250,
THAT HAD BEEN ILLEGALLY HARVESTED
 This crime carries a maximum sentence of 5 years imprisonment and a \$
 fine. The standard range is from 0 months to
12 months based upon the attached stipulation as to my criminal history.
 Offense Designations: Most Serious Offense[] Serious Violent[] Violent ☒ Non-
 Violent[] Sex[] Drug[] Traffic[] (check all that apply)

Count :

Elements:

This crime carries a maximum sentence of years imprisonment and a \$
 fine. The standard range is from months to
 months based upon the attached stipulation as to my criminal history.
 Offense Designations: Most Serious Offense[] Serious Violent[] Violent[] Non-
 Violent[] Sex[] Drug[] Traffic[] (check all that apply)

6. (b) (continued) Defendant is pleading guilty to these additional counts:

COUNT NO.	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancement for (F) Firearm, (D) Other Deadly Weapon, (V) VUCSA in protected zone, (VH) Vehicular Homicide, See RCW 46.61.520, or (JP) Juvenile Present	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	STANDARD RANGE COMMUNITY CUSTODY (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f))	MAXIMUM PENALTY
<u> </u>	<u>0-12 MONTHS</u>				<u>5 yrs.</u>
<u> </u>					

ATTACHMENT "B"

Case Name: DOUGLAS J. M. TOBIN Cause No: 02-1-01236-3

ATTACHMENT "B"

4. (b) (CONTINUED) Defendant is pleading guilty to these additional counts:

Count 4 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 15th DAY OF June, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 5 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 20 - 21 DAY OF June, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 6 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 22 - 23 DAY OF June, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 7 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 24 - 25 DAY OF June, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 8 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 28 - 30 DAY OF June, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 9 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 3rd DAY OF July, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 10 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 6th DAY OF July, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 11 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 9th DAY OF July, 2000 DID

1
2
3 TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
4 ILLEGALLY HARVESTED.

5 Count 12 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
6 Elements: IN THE STATE OF WASHINGTON ON THE 13th DAY OF July, 2000 DID
7 TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
8 ILLEGALLY HARVESTED.

9 Count 13 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
10 Elements: IN THE STATE OF WASHINGTON ON THE 15th DAY OF July, 2000 DID
11 TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
12 ILLEGALLY HARVESTED.

13 Count 14 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
14 Elements: IN THE STATE OF WASHINGTON ON THE 18 - 20 DAY OF July, 2000 DID
15 TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
16 ILLEGALLY HARVESTED.

17 Count 15 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
18 Elements: IN THE STATE OF WASHINGTON ON THE 27th DAY OF July, 2000 DID
19 TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
20 ILLEGALLY HARVESTED.

21 Count 16 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
22 Elements: IN THE STATE OF WASHINGTON ON THE 28 - 29 DAY OF July, 2000 DID
23 TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
24 ILLEGALLY HARVESTED.

25 Count 17 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
26 Elements: IN THE STATE OF WASHINGTON ON THE 29th DAY OF July, 2000 DID
27 TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
28 ILLEGALLY HARVESTED.

Count 18 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 1st DAY OF August, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 19 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 4th DAY OF August, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 20 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 8th DAY OF August, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 21 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 10 - 12 DAY OF August, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 22 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 14 - 15 DAY OF August, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 23 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 20th DAY OF August, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 24 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 26th DAY OF August, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 25 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 2nd DAY OF September, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 26 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 11th DAY OF September, 2000 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 27 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 9th DAY OF March, 2001 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 28 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 23 - 26 DAY OF March, 2001 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 29 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
Elements: IN THE STATE OF WASHINGTON ON THE 5th DAY OF April, 2001 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 30 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
 Elements: IN THE STATE OF WASHINGTON ON THE 7th DAY OF April, 2001 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 31 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
 Elements: IN THE STATE OF WASHINGTON ON THE 27th DAY OF April, 2001 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 32 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
 Elements: IN THE STATE OF WASHINGTON ON THE 11th DAY OF November, 2001 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

Count 33 : UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE
 Elements: IN THE STATE OF WASHINGTON ON THE 5th DAY OF February, 2002 DID
TRAFFICK IN SHELLFISH, VALUED IN EXCESS OF \$250.00, THAT HAD BEEN
ILLEGALLY HARVESTED.

This crime carries a maximum sentence of 5 years imprisonment and a \$_____ fine.
 The standard range is from 0 months to 12 months based upon the attached stipulation as
 to my criminal history.

Offense Designations: Most Serious Offense ☐ Serious Violent ☐ Violent ☐ Non-
 Violent ☐ Sex ☐ Drug ☐ Traffic ☐ (check all that apply)

6. (b) (continued) defendant is pleading guilty to these additional counts:

COUNT NO:	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancement for (F) Firearm, (D) Other Deadly weapon, (V) VUCSA in protected zone, (VH) Vehicular Homicide, See RCW 46.61.520, or (JP) Juvenile Present	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	STANDARD RANGE COMMUNITY CUSTODY (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f))	MAXIMUM PENALTY
4	0-12 MONTHS				5 YRS
5	0-12 MONTHS				5 YRS
6	0-12 MONTHS				5 YRS
7	0-12 MONTHS				5 YRS
8	0-12 MONTHS				5 YRS
9	0-12 MONTHS				5 YRS
10	0-12 MONTHS				5 YRS
11	0-12 MONTHS				5 YRS
12	0-12 MONTHS				5 YRS
13	0-12 MONTHS				5 YRS
14	0-12 MONTHS				5 YRS
15	0-12 MONTHS				5 YRS

16	0-12 MONTHS				5 YRS
17	0-12 MONTHS				5 YRS
18	0-12 MONTHS				5 YRS
19	0-12 MONTHS				5 YRS
20	0-12 MONTHS				5 YRS
21	0-12 MONTHS				5 YRS
22	0-12 MONTHS				5 YRS
23	0-12 MONTHS				5 YRS
24	0-12 MONTHS				5 YRS
25	0-12 MONTHS				5 YRS
26	0-12 MONTHS				5 YRS
27	0-12 MONTHS				5 YRS
28	0-12 MONTHS				5 YRS
29	0-12 MONTHS				5 YRS
30	0-12 MONTHS				5 YRS
31	0-12 MONTHS				5 YRS
32	0-12 MONTHS				5 YRS
33	0-12 MONTHS				5 YRS

Case Name: DOUGLAS J. M. TOLSON Cause No: 02-1-01236-3

ATTACHMENT "B"

4. (b) (continued) Defendant is pleading guilty to these additional counts:

Count 34: UNLAWFULLY ENGAGE IN FISH DEALING ACTIVITY WITHOUT A LICENSE IN THE FIRST DEGREE

Elements:

IN THE STATE OF WASHINGTON DURING 1/1/00 THROUGH 3/15/02
DID SELL SHRIMP & (CARB & GEODUCK), VALUED IN EXCESS OF \$250⁰⁰
AND DID NOT HAVE A VALID WHOLESALE FISH DEALERS LICENSE.

This crime carries a maximum sentence of 5 years imprisonment and a \$10,000 fine. The standard range is from 0 months to

12 months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense[] Serious Violent[] Violent[☒] Non-Violent[] Sex[] Drug[] Traffic[] (check all that apply)

Count 35: VIOLATION OF COMMERCIAL FISHING BARR OR TIDE IN THE FIRST DEGREE

Elements:

IN THE STATE OF WASHINGTON DURING 6/6/00 THROUGH 3/15/02
DID KNOWINGLY, WHILE ACTING FOR COMMERCIAL PURPOSES, TAKE CARB
AND GEODUCK VALUED IN EXCESS OF \$250⁰⁰ AT A TIME AND/OR PLACE THAT
WAS NOT OPEN TO THE TAKING OF CARB OR GEODUCK FOR COMMERCIAL PURPOSES.

This crime carries a maximum sentence of 5 years imprisonment and a \$12,000 fine. The standard range is from 0 months to

12 months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense[] Serious Violent[] Violent[] Non-Violent[] Sex[] Drug[] Traffic[] (check all that apply)

6. (b) (continued) Defendant is pleading guilty to these additional counts:

COUNT NO.	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancement for (F) Firearm, (D) Other Deadly Weapon, (V) VUCSA in protected zone, (VH) Vehicular Homicide, See RCW 46.61.520, or (JP) Juvenile Present	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	STANDARD RANGE COMMUNITY CUSTODY (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f))	MAXIMUM PENALTY
<u>34</u>	<u>0-12</u>	<u>—</u>	<u>0-12</u>		<u>\$475 \$10,000</u>
<u>35</u>	<u>0-12</u>	<u>—</u>	<u>0-12</u>		<u>\$475 \$10,000</u>

ATTACHMENT "B"

(b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes other current offenses, prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere. ☐ The parties stipulate the standard range is correct and may be relied upon.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions prior to being sentenced.

(d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding upon me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase, even if the result is a mandatory sentence of life imprisonment without the possibility of parole.

(e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees, the costs of incarceration, and other legal financial obligations.

(f) In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the community custody range established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.728 (formerly RCW 9.94A.150) is longer, that will be the term of my community custody. If I have been convicted of a crime that is not listed in the chart and my sentence is more than 12 months, I will be placed on community custody for the period of earned release.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Crimes Against Persons as defined by RCW 9.94A.411 (formerly .440(2))	9 to 18 months or up to the period of earned release, whichever is longer
Offenses under Chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.505 (formerly .120(6)))	9 to 12 months or up to the period of earned release, whichever is longer

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

(g) The prosecuting attorney will make the following recommendation to the judge; ☐ The State and the defendant will jointly make this recommendation.

THE STATE WILL REQUEST AN EXCEPTIONAL SENTENCE TO RUN CONSECUTIVE TO CRIME #02-101449-1 - SUBCVP 110 COSTS - THE STATE WILL REQUEST \$300,000 RESTITUTION. THE DRUGGONEY FORFEITS ALL PROPERTY SEIZED BY THE STATE: TYPHOON EQUIPMENT, SMT EQUIPMENT, BOAT, WHISKY, EQUIPMENT, TRUCK, ETC. CHARGES, ETC. VAND, UNHEALTHY.

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range of actual confinement and community custody unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range of actual confinement and community custody, either the State or I can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. I am ☐ am not ☐ a United States citizen.

(j) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040.

(k) Public assistance will be suspended during any period of imprisonment.

(l) I understand that I will be required to have a biological sample collected for purposes of DNA identification analysis. For offenses committed on or after July 1, 2002, I will be assessed a \$100 DNA collection fee.

NOTIFICATION RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS

STATE'S REQUEST FOR RESTITUTION
SENTENCE WILL NOT BE CHANGED
19 YEARS AND 8 MONTHS

DO NOT APPLY, THEY SHOULD BE STRICKEN.

- (m) The judge may sentence me as a **first-time offender** instead of giving me a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days confinement, and up to two years of community custody, plus all of the conditions described in paragraph 5(f). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.
- (n) If this is a crime of domestic violence and I, or the victim of the offense has a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.
- (o) If this crime involves a **sexual offense, prostitution, or a drug offense** associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.
- (p) The judge may sentence me under the special **drug offender sentencing alternative (DOSA)** if I qualify under RCW 9.94A.660, formerly RCW 9.94A.120(6). This sentence could include a period of total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions described in paragraph 5(f). During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose community custody of at least one-half of the midpoint of the standard range that must include appropriate substance abuse treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. Additionally, the judge could prohibit me from using alcohol or controlled substances, require me to devote time to a specific employment or training, stay out of certain areas, pay thirty dollars per month to offset the cost of monitoring and require other conditions, including affirmative conditions. For offenses committed on or after June 8, 2000, if an offender receives a DOSA sentence and then fails to complete the drug offender sentencing alternative program or is administratively reclassified by the department of corrections, the offender shall be reclassified to serve the unexpired term of the sentence as ordered by the sentencing judge and shall then be subject to a range of community custody and early release as specified in section 5(f) of the plea form.
- (q) If the judge finds that I have a **chemical dependency** that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.
- (r) If this crime involves the manufacture, delivery, or unlawful possession with the intent to deliver methamphetamine or amphetamine or unlawful possession of pseudoephedrine or anhydrous ammonia with intent to manufacture methamphetamine, a **mandatory methamphetamine clean-up fine of \$3,000.00** will be assessed. RCW 69.50.401(a)(1)(ii) or RCW 69.50.440.
- (s) If this crime involves a **motor vehicle**, my driver's license or privilege to drive will be suspended or revoked. If I have a driver's license, I must now surrender it to the judge.
- (t) I understand that the offense(s) I am pleading guilty to include a **deadly weapon or firearm enhancement**. Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements.
- (u) I understand that the offenses I am pleading guilty to include both a conviction under RCW 9.41.040 for **unlawful possession of a firearm** in the first or second degree and one or more convictions for the felony crimes of **theft of a firearm or possession of a stolen firearm**. The sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will also be imposed for each firearm unlawfully possessed.
- (v) I understand that if I am pleading guilty to the crime of **unlawful practices in obtaining assistance** as defined in RCW 74.08.331, no assistance payment shall be made for at least 6 months if this is my first conviction and for at least 12 months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.

(w) If this crime involves a violation of the state drug laws, my eligibility for state and federal food stamps, welfare, and education benefits will be affected. 20 U.S.C. §1091(r) and 21 U.S.C. § 826a.

6. I UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial as well as other pretrial motions such as speedy trial challenges and suppression issues.

7. I make this plea freely and voluntarily.

8. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement: *CT 1-33 On the boats indicated in this plea in Pierce County I unlawfully trafficked in shellfish valued in excess of \$250 that had been illegally harvested. CT 34 On 1/1/00-3/4/02 in Pierce County I unlawfully sold shellfish valued in excess of \$250 without a valid wholesale dealer's license. CT 35 On 6/6/00-7/5/02 in Pierce County I took crab + searubank for commercial purposes in excess of \$250 at a time/area not open to the public.*

If my statement is a Newton or Alfred Plea, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. ☒ I was given a copy and I read this plea statement. ☒ My lawyer read this plea statement to me. Also, my lawyer has explained to me, and we have fully discussed, all of the above paragraphs. If I have any more questions about it, I understand I can and need to ask the judge when I enter my plea of guilty.

Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

Defendant's Lawyer, WSBA#

Approved for entry:

Prosecuting Attorney, WSBA#

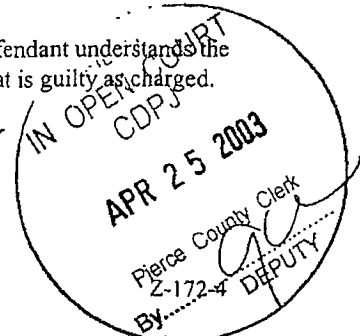
The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The court finds:

- (a) ☐ The defendant had previously read the entire statement above and the defendant understood it in full; or
- (b) ☐ The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) ☐ An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently, and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this 28 day of April, 2003.

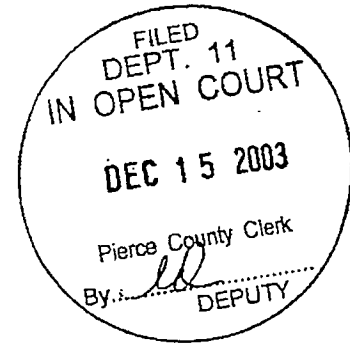
Judge



ATTACHMENT 3

Judgment and Sentence

(02-1-05810-0, theft)



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 02-1-05810-0

vs.

JUDGMENT AND SENTENCE (JS)

DOUGLAS JOHN MARTIN TOBIN

Defendant.

☒ Prison
☐ Jail One Year or Less
☐ First-Time Offender
☐ SOSA
☐ DOSA
☐ Breaking The Cycle (BTC)

DEC 16 2003

SID: UNKNOWN

DOB: 4/27/52

I. HEARING

- 1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the court FINDS:

- 2.1 CURRENT OFFENSE(S): The defendant was found guilty on
 by ☒ plea ☐ jury-verdict ☐ bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME	INCIDENT NO.
I	THEFT IN THE FIRST DEGREE (J1)	9A 55 001		010011003
		9.		

as charged in the Amended Information

- ☐ Current offenses encompassing the same criminal offenses as the current offenses are (RCW 9A.589):

- ☒ Other current convictions listed under different offenses are (list offense and cause number):

02-1-01236-3

62-1-01499-4

in determining

in calculating the offender score

JUDGMENT AND SENTENCE (JS)

(Felony) (5/2002) Page 1 of 9

03-9-15009-7

Office of Prosecuting Attorney
 946 County-City Building
 Tacoma, Washington 98402-2171
 Telephone: (253) 798-7400

02-1-05810-0

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J ADULT JUV	TYPE OF CRIME
1	ASLT 2	11/19/76		2/3/76	ADULT	NV
2	BURG 1	11/19/76		2/3/76	ADULT	NV
3	MANSLAUGHTER 1	1/21/88		8/15/86	ADULT	NV ✓
4	UPOFA	CURRENT			ADULT	
5	35 COUNTS Fish and Wildlife Trafficking 1	CURRENT			ADULT	NV

[] The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancement)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancement)	MAXIMUM TERM
I	38	II	43-57 MONTHS	NONE	43-57 MON	10 YRS

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Horn, See RCW 46.61.520, (JP) Juvenile present.

2.4 EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence ☒ above [] below the standard range for Count(s) 01-1-017964. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney ☒ did [] did not recommend a similar sentence.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

[] The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [] attached [] as follows: N/A

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1.

3.2 [] The court DISMISSES Counts _____ [] The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

02-1-05810-0

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

RIN/RJN \$ _____ Restitution to: _____
 \$ _____ Restitution to: _____
 (Name and Address--address may be withheld and provided confidentially to Clerk's Office).

PCV \$ 500.00 Victim assessment RCW 7.68.035

BLD \$ 100.00 Biological Sample Fee ~~RCW~~

CRC \$ _____ Court costs, including RCW 9.94A.030, 9.94A.505, 10.01.160, 10.46.190

Criminal filing fee \$ 110.00 FRC

Witness costs \$ _____ WFR

Sheriff service fees \$ _____ SFR/SFS/SFW/WRF

Jury demand fee \$ _____ JFR

Other \$ _____

PUB \$ _____ Fees for court appointed Attorney RCW 9.94A.030

\$ _____ Other costs for: _____

\$ 6/C TOTAL RCW 9.94A.760

☒ The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

☐ shall be set by the prosecutor.

☒ is scheduled for 1/27/03 @ 1:30

☐ RESTITUTION. Order Attached

☒ Restitution ordered above shall be paid jointly and severally with:

NAME of other defendant	CAUSE NUMBER	(Victim name)	(Amount-\$)
RJN			

☒ The Department of Corrections (DOC) may immediately issue a Notice of Payroll Deduction.

RCW 9.94A.200010.

☒ All payments shall be made in accordance with the policies of the clerk and on a schedule established by DOC, commencing immediately, unless the court specifically sets forth the rate here: Not less than

\$ _____ per month commencing _____ RCW 9.94A.760.

☐ In addition to the other costs imposed herein, the court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate. RCW 9.94A.760.

☐ The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190.

02-1-05810-0

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.

4.2 ☐ HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

☒ DNA TESTING. The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

4.3 The defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence).

☐ Domestic Violence Protection Order or Antiharassment Order is filed with this Judgment and Sentence.

4.4 OTHER:

4.4(a) BOND IS HEREBY EXONERATED

4.5 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

52 months on Count 1 _____ months on Count _____
 _____ months on Count _____ months on Count _____
 _____ months on Count _____ months on Count _____

Actual number of months of total confinement ordered is: 32 168

(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: CONSECUTIVE TO 02-1-01799-4

02-1-05810-0

The sentence herein shall run consecutively to all felony sentences in other cause numbers prior to the commission of the crime(s) being sentenced. _____

Confinement shall commence immediately unless otherwise set forth here: _____

(b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: _____

4.6 ☐ COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:

Count _____ for _____ months;

Count _____ for _____ months;

Count _____ for _____ months;

☐ COMMUNITY CUSTODY is ordered as follows:

Count _____ for a range from: _____ to _____ Months;

Count _____ for a range from: _____ to _____ Months;

Count _____ for a range from: _____ to _____ Months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses -- serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense -- RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community service; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

☐ The defendant shall not consume any alcohol.

☐ Defendant shall have no contact with: _____

☐ Defendant shall remain ☐ within ☐ outside of a specified geographical boundary, to wit: _____

☐ The defendant shall participate in the following crime-related treatment or counseling services: _____

☐ The defendant shall undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse

☐ mental health ☐ anger management and fully comply with all recommended treatment.

02-1-05810-0

[] The defendant shall comply with the following crime-related prohibitions: _____

Other conditions may be imposed by the court or DOC during community custody, or are set forth here: _____

4.7 [] **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: _____

V. NOTICES AND SIGNATURES

5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505.

5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7602.

5.4 **RESTITUTION HEARING.**

[] Defendant waives any right to be present at any restitution hearing (defendants initials): _____

5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634.

02-1-05810-0

5.6 FIREARMS. You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9A.10.040, 9A.10.047.

5.7 SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. N/A

5.8 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: 12-15-03

JUDGE
Print name

JOHN A. MCCARTHY

Deputy Prosecuting Attorney

Print name: Tony L. Hays

WSB # 27542

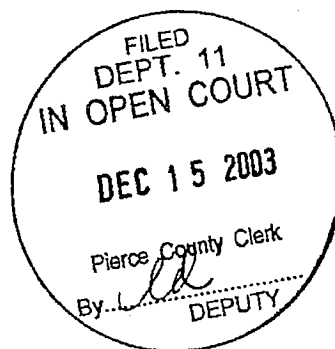
Attorney for Defendant

Print name: Allen Ressler

WSB # 5330

Defendant

Print name: Douglas I Tobin



02-1-05810-0

CERTIFICATE OF CLERK

CAUSE NUMBER of this case: 02-1-05810-0

I, KEVIN STOCK Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State, by: _____, Deputy Clerk

02-1-05810-0

IDENTIFICATION OF DEFENDANT

SID No. UNKNOWN
(If no SID take fingerprint card for State Patrol)

Date of Birth 4/27/52

FBI No. UNKNOWN

Local ID No. UNKNOWN

PCN No. UNKNOWN

Other

Alias name, SSN, DOB: _____

Races:

☐ Asian/Pacific Islander ☐ Black/African-American

☐ Caucasian

Ethnicity:

☐ Hispanic

Sex:

☒ Male

☒ Native American ☐ Other: _____

☒ Non-Hispanic

☐ Female

FINGERPRINTS

Left four fingers taken simultaneously

Left Thumb

Right Thumb

Right four fingers taken simultaneously

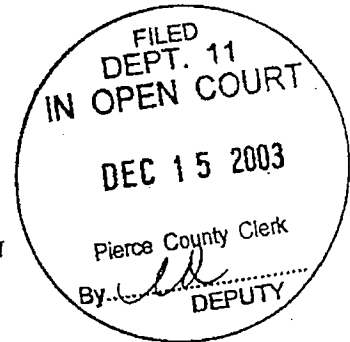
I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, [Signature]

Dated: 12-15-03

DEFENDANT'S SIGNATURE: [Signature]

DOUGLAS JOHN MARTIN TOBIN

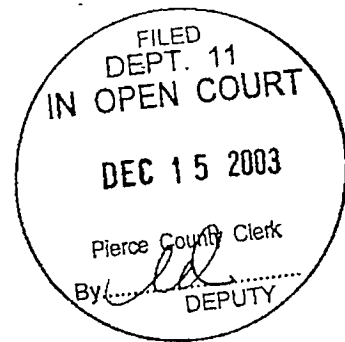
DEFENDANT'S ADDRESS: _____



ATTACHMENT 4

Judgment and Sentence

(02-1-01236-3, fish and wildlife violations)



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 02-1-01236-3

COUNTS I THRU XXXV ONLY

vs.

DOUGLAS JOHN MARTIN TOBIN

Defendant.

JUDGMENT AND SENTENCE (JS)

☐ Prison☒ Jail One Year or Less☐ First-Time Offender☐ SOSA☐ DOSA☐ Breaking The Cycle (BTC)

SID: UNKNOWN

DOB: 4/27/52

I. HEARING

- 1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the court FINDS:

- 2.1 CURRENT OFFENSE(S): The defendant was found guilty on
by ☒ plea ☐ jury-verdict ☐ bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME	INCIDENT NO.
I	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	6/6/2000	010011003
II	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	6/9/2000 THRU 6/10/2000	010011003
III	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a))	6/13/2000	010011003
IV	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE		5/2000	010011003
V	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE		0/2000 RU	010011003

JUDGMENT AND SENTENCE (JS)
(Felony) (5/2002) Page 1 of 12

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946 County-City Building
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

Page 1

02-1-01236-3

COUNT	CRIME	RCW	DATE OF CRIME	INCIDENT NO.
			6/21/2000	
V1	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	6/22/2000 THRU 6/23/2000	010011003
VII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	6/24/2000 THRU 6/25/2000	010011003
VIII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	6/28/2000 THRU 6/30/2000	010011003
IX	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	7/3/2000	010011003
X	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	7/6/2000	010011003
XI	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	7/9/2000	010011003
XII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	7/13/2000	010011003
XIII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	7/15/2000	010011003
XIV	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	7/18/2000 THRU 7/20/2000	010011003
XV	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	7/27/2000	010011003
XVI	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	7/28/2000 THRU 7/29/2000	010011003
XVII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	7/29/2000	010011003
XVIII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	8/1/2000	010011003

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XXIX	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	8/4/2000	010011003
XX	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	8/8/2000	010011003
XXI	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	8/10/2000 THRU 8/12/2000	010011003
XXII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	8/14/2000 THRU 8/15/2000	010011003
XXIII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	8/20/2000	010011003
XXIV	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	8/26/2000	010011003
XXV	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	9/2/2000	010011003
XXVI	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	9/11/2000	010011003
XXVII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	3/9/2001	010011003
XXVIII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	3/23/2001 THRU 3/26/2001	010011003
XXIX	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	4/3/2001	010011003
XXX	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	4/7/2001	010011003
XXXI	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	4/27/2001	010011003
XXXII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	11/11/2001	010011003
XXXIII	UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE IN THE FIRST DEGREE	77.15.260(2)(a)	2/5/2002	010011003
XXXIV	UNLAWFULLY ENGAGE IN FISH DEALING ACTIVITY WITHOUT A LICENSE IN THE FIRST DEGREE	77.65.280(2) OR 77.65.480 OR 77.15.620 (1)(b) AND (3) AND 77.65.280 (2) AND 77.65.480	1/2/2000 THRU 3/15/2002	010011003
XXXV	VIOLATION OF COMMERCIAL FISHING AREA OR TIME IN THE FIRST DEGREE	77.15.550(2)	6/6/2000 THRU 3/15/2002	010011003

as charged in the THIRD AMENDED Information

[] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589);

☒ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

02-1-05810-0 Theft 1st
02-1-01499-4 UNLAWFUL poss. Firearm 1st

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2.2 CRIMINAL HISTORY (RCW 9.94A.525):

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J ADULT JUV	TYPE OF CRIME
1	ASLT 2	11/19/76		8/3/76	ADULT	NV
2	BURG 1	11/19/76		2/3/76	ADULT	NV
3	MANSLAUGHTER 1	1/21/88		8/15/86	ADULT	NV
4	UPFA	CURRENT		6/9/01	ADULT	NV
5	THEFT 1	CURRENT		6/9/01	ADULT	NV
6	34 FISH AND WILDLIFE VIOL	CURRENT		6/9/01	ADULT	NV

[] The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

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23 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
II	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
III	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
IV	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
V	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
VI	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
VII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
VIII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
IX	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
X	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XI	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XIII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XIV	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XV	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XVI	38	UNRANKD	0-12 MOS	NOEN	0-12 MOS	5 YRS
XVII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XVIII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XIX	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XX	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXI	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXIII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXIV	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXV	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXVI	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXVII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXVIII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXIX	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXX	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXXI	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXXII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXXIII	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXXIV	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS
XXXV	38	UNRANKD	0-12 MOS	NONE	0-12 MOS	5 YRS

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Horn, See RCW 46.61.520, (JP) Juvenile present.

2.4 EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence [] above [] below the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney [] did [] did not recommend a similar sentence.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds

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that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

[] The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [] attached [] as follows: N/A

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1.

3.2 [] The court DISMISSES Counts _____ [] The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

RTN/RN	\$ _____	Restitution to: _____	
	\$ _____	Restitution to: _____	
	(Name and Address--address may be withheld and provided confidentially to Clerk's Office).		
PCV	\$ 500.00	Victim assessment	RCW 7.68.035
BLD	\$ 100.00	Biological Sample Fee	RCW
CRC	\$ _____	Court costs, including RCW 9.94A.030, 9.94A.505, 10.01.160, 10.46.190	
	Criminal filing fee	\$ 110.00	FRC
	Witness costs	\$ _____	WFR
	Sheriff service fees	\$ _____	SFR/SFS/SFW/WRF
	Jury demand fee	\$ _____	JFR
	Other _____	\$ _____	
PUB	\$ _____	Fees for court appointed Attorney	RCW 9.94A.030
	\$ _____	Other costs for: _____	
	\$ 110.00	TOTAL	RCW 9.94A.760

[X] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[] shall be set by the prosecutor.

[X] is scheduled for 1/23/04 @ 1:30

[] RESTITUTION. Order Attached

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[X] Restitution ordered above shall be paid jointly and severally with:

	NAME of other defendant	CAUSE NUMBER	(Victim name)	(Amount-\$)
RJN				

[X] The Department of Corrections (DOC) may immediately issue a Notice of Payroll Deduction.

RCW 9.94A.200010.

[X] All payments shall be made in accordance with the policies of the clerk and on a schedule established by DOC, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month commencing _____. RCW 9.94A.760.

[] In addition to the other costs imposed herein, the court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate. RCW 9.94A.760.

[] The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.

4.2 [] HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

[X] DNA TESTING. The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

4.3 The defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence).

[] Domestic Violence Protection Order or Antiharassment Order is filed with this Judgment and Sentence.

4.4 OTHER:

4.4(a) BOND IS HEREBY EXONERATED

4.5 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

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12 months on Count 1 Through 35 months on Count
 months on Count months on Count
 months on Count months on Count

Actual number of months of total confinement ordered is: 12 months

(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively:

The sentence herein shall run consecutively to all felony sentences in other cause numbers prior to the commission of the crime(s) being sentenced.

Confinement shall commence immediately unless otherwise set forth here:

(b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

4.6 [] COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:

Count for months;

Count for months;

Count for months;

[] COMMUNITY CUSTODY is ordered as follows:

Count for a range from: to Months;

Count for a range from: to Months;

Count for a range from: to Months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses -- serious violent offense, second degree assault, any crime against a person with a deadly weapon finding,

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Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense -- RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community service; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

☐ The defendant shall not consume any alcohol.

☐ Defendant shall have no contact with: _____

☐ Defendant shall remain ☐ within ☐ outside of a specified geographical boundary, to wit: _____

☐ The defendant shall participate in the following crime-related treatment or counseling services: _____

☐ The defendant shall undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse

☐ mental health ☐ anger management and fully comply with all recommended treatment.

☐ The defendant shall comply with the following crime-related prohibitions: _____

Other conditions may be imposed by the court or DOC during community custody, or are set forth here: _____

4.7 ☐ **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: _____

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V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505.
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7602.
- 5.4 **RESTITUTION HEARING.**
[] Defendant waives any right to be present at any restitution hearing (defendants initials): _____
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634.
- 5.6 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.7 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. N/A
- 5.8 **OTHER:** _____

DONE in Open Court and in the presence of the defendant this date: 12-15-03

Deputy Prosecuting Attorney

Print name: John A. McCarthyWSB # 17284

Pierce County Clerk

By [Signature]JUDGE
Print name
JOHN A. MCCARTHY

Attorney for Defendant

Print name

WSB # 5330

Defendant

Print name: James John Tabin

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CERTIFICATE OF CLERK

CAUSE NUMBER of this case: 02-1-01236-3

I, KEVIN STOCK Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State, by: _____, Deputy Clerk

02-1-01236-3

IDENTIFICATION OF DEFENDANT

SID No. UNKNOWN
(If no SID take fingerprint card for State Patrol)

Date of Birth 4/27/52

FBI No. UNKNOWN

Local ID No. UNKNOWN

PCN No. UNKNOWN

Other

Alias name, SSN, DOB: _____

Race:

☐ Asian/Pacific Islander ☐ Black/African-American

☐ Caucasian

Ethnicity:

☐ Hispanic

Sex:

☒ Male☒ Native American ☐ Other: _____☒ Non-Hispanic☐ Female

FINGERPRINTS

Left four fingers taken simultaneously

Left Thumb

Right Thumb

Right four fingers taken simultaneously

I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk *Debra L. Denick* Dated: 12-15-03

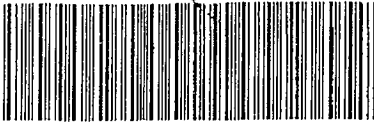
DEFENDANT'S SIGNATURE: *DOUGLAS JOHN MARTIN TOBIN*

DEFENDANT'S ADDRESS: _____

ATTACHMENT 5

Mandate issued October 8, 2007

(02-1-05810-0, theft)



02-1-05810-0 28472502 MND 10-22-07

FILED
SUPREME COURT
STATE OF WASHINGTON

2007 OCT -8 P 1:12

 FILED
IN COUNTY CLERK'S OFFICE BY RONALD R. CARPENTER
OCT 19 2007 P.M.
PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

THE SUPREME COURT OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

DOUGLAS JOHN MARTIN TOBIN,

Petitioner.

MANDATE

NO. 78628-3

C/A Nos. 31636-6-II & 31646-3-II
(consolidated)Pierce County Superior Court
No. 02-1-05810-0

THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington
in and for Pierce County.

The opinion of the Supreme Court of the State of Washington filed on September 13, 2007, became final in the above entitled cause on October 3, 2007. This cause is mandated to the superior court from which the appeal was taken for further proceedings in accordance with the attached true copy of the opinion.

Pursuant to Rule of Appellate Procedure 14.3, costs are taxed as follows: Costs in the amount of \$69.67 are awarded to Respondent State of Washington and costs in the amount of \$5,941.09 are awarded to The Office of Public Defense to be paid by Petitioner Tobin.

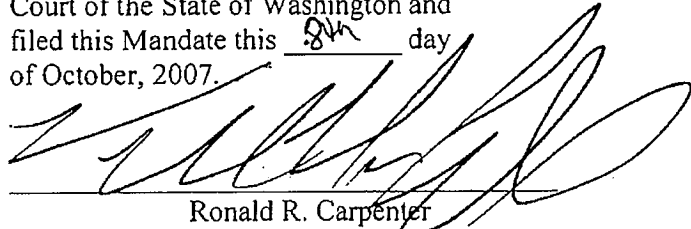
107/157

 Attachment
5

Page Two
MANDATE
78628-3



I have affixed the seal of the Supreme Court of the State of Washington and filed this Mandate this 8th day of October, 2007.


Ronald R. Carpenter
Clerk of the Supreme Court, State of Washington

cc: Hon. John A. McCarthy, Judge
Hon. Kevin Stock, Clerk
Pierce County Superior Court
Court of Appeals Div II
Reed Manley Benjamin Speir
Michelle Luna-Green
Douglas John Martin Tobin
Joseph Vincent Panesko
Reporter of Decisions